

APPROVED JULY 12, 2006



**SCOTTSDALE PLANNING COMMISSION  
CITY HALL KIVA  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
JUNE 28, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** Steve Steinberg, Chairman (departed at 7:03 p.m.)  
James Heitel, Vice-Chairman  
David Barnett, Commissioner  
Jeffrey Schwartz, Commissioner (departed at 7:03 p.m.)  
Steven Steinke, Commissioner  
Eric Hess, Commissioner  
Kevin O'Neill, Commissioner

**STAFF PRESENT:** Randy Grant  
Sherry Scott  
Joe Padilla  
Tim Curtis  
Greg Williams  
Kim Chafin  
Dan Symer

**CALL TO ORDER**

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Steinberg at 5:13 p.m.

**ROLL CALL**

A formal roll call was conducted, confirming members present as stated above.

**MINUTES REVIEW AND APPROVAL**

1. June 14, 2006 (including Study Session)

**COMMISSIONER SCHWARTZ MOVED TO APPROVE THE MINUTES OF  
JUNE 14, 2006 REGULAR MEETING AND STUDY SESSION. SECONDED BY**

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**COMMISSIONER BARNETT, THE MOTION CARRIED BY A UNANIMOUS VOTE OF SEVEN (7) TO ZERO (0).**

**INITIATION**

2. Temporary Fencing Text Amendment (467-PA-2006) request to initiate a text amendment to Article VII, Section(s) 7.700, currently reserved, of the City of Scottsdale Zoning Ordinance (455) to protect the City's aesthetic quality through the use of temporary fencing with screening mechanisms for construction sites, vacant buildings, and vacant land.

**COMMISSIONER BARNETT MOVED TO INITIATE THE TEMPORARY FENCING TEXT AMENDMENT, 467-PA-2006. COMMISSIONER SCHWARTZ SECONDED THE MOTION.**

Chairman Steinberg commented that the issue of temporary fencing was especially important to Commissioners Barnett and Schwartz; he requested that they be involved with the creation of the text amendment. Mr. Grant agreed that a subcommittee consisting of the two Commissioners could be consulted as the amendment was being drafted. Chairman Steinberg expressed concern that temporary fencing would become billboard signage for the project; he noted that in addition to other concerns, restrictions that would make the screening aesthetically pleasing could be discussed.

Commissioner Schwartz encouraged staff to keep the text amendment on a fast track so that it can be moved forward as soon as possible.

Commissioner Barnett stated that issues he would like addressed included type and location of signage on fences, restrictions on length of time fencing will be allowed, and a format for addressing problems concerning remnants from demolition.

In response to an inquiry by Chairman Steinberg, Mr. Grant clarified that screening is not defined in the Ordinance. It is done on a case-by-case basis. Staff will include a specific type of screening and material in the text amendment.

**THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

**CONTINUANCES**

3. 46-ZN-1990#17 Grayhawk Parcel 2n Rezoning

Request by owner to rezone from Resort/Townhouse Residential District, Planned Community District (R-4R PCD) to Central Business District, Planned community District (C-2 PCD) with amended development standards and to amend the existing development agreement on 34.9+/- acres located at 8680 E. Thompson Peak Parkway.

**COMMISSIONER SCHWARTZ MOVED TO CONTINUE ITEM 46-ZN-1990#17 TO THE AUGUST 23, 2006 HEARING OF THE PLANNING COMMISSION.**

**SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED  
UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

**EXPEDITED AGENDA**

5. 2-AB-2006 Novak Residence

Request by owner to abandon the General Land Office (GLO) patent easement on the northern and eastern boundary of the property located at 26780 N. 77th Street and the easement for the planned cul-de-sac for 77th Street.

Mr. Williams addressed the Commission. Highlights of his presentation included a context aerial of the area. He reviewed the application, noting that a change had been made and the application was only for 18 feet on the northern portion located along 77<sup>th</sup> Street and Jomax. In regard to previous abandonments, Mr. Williams noted that an abandonment for a neighboring property had recently been recommended by the Planning Commission.

Mr. Howard Myers of 6631 East Horned Owl Trail, representing the Desert Property Owners Association, addressed the Commission. He expressed opposition to abandonments in the area because the area infrastructure has not been planned yet. He noted issues that have resulted from the lack of planning considerations. Mr. Myers noted that the Planning Commission had become proactive, and he hoped staff would be encouraged to develop a system that would prevent the same situations from continuing to occur. Easements should be shown on plats or maps.

Mr. Myers was pleased that the decision had been made not to include the abandonment on the eastern boundary. He opined that the property owners deserved a resolution to the mistakes that have been made, noting that a plan had been put together by the residents in the area that had been violated on many occasions.

**VICE-CHAIRMAN HEITEL MOVED TO APPROVE 2-AB-2006 WITH THE  
REVISION THAT THE ABANDONMENT APPLIED ONLY TO THE NORTHERN  
18 FEET.**

Chairman Steinberg suggested that both items on the expedited agenda be discussed before a vote.

8. 15-AB-2004 Biel Property

Request by owner to abandon portions of 120th Street and Dixileta Drive.

Referring to an aerial view of the property, Mr. Myers reiterated his feelings on premature abandonment in the area, especially along Dixileta Drive in this case.

In response to a question by Chairman Steinberg, Mr. Williams depicted Rio Verde as the road running along the south of the property. Mr. Williams explained where the water line would run through the preserve and down Dixileta

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to 118<sup>th</sup> Street. The Applicant left 20 feet open for access to the preserves and a major trailhead will be located north of Dixileta on 118<sup>th</sup> Street.

Chairman Steinberg suggested forming a study group to review the possible ramifications for future cases; much has to do with abandonments and infrastructure. Mr. Williams clarified that the area was part of transportation and infrastructure studies being conducted for future subdivisions between 118<sup>th</sup> Street and 136<sup>th</sup> Street. Chairman Steinberg commented that the situation was an example of not seeing things in context.

In response to a question by Vice-Chairman Heitel, Mr. Williams confirmed that without the abandonment the Applicant would not have the 1100 square feet needed in order to do a split into two five acre lots while leaving 20 feet on Dixileta.

In response to a question by Commissioner Barnett, Mr. Williams explained if the abandonment were denied the Applicant would not be able to apply to the Board of Adjustment for a variance, because they would not meet the four criteria.

Commissioner Barnett stated that if Dixileta Drive was to be included in the abandonment he would not support the Application. He noted that he supported abandoning the east and south sides for access.

In response to an inquiry by Commissioner O'Neill, Mr. Williams clarified that 35 feet would be abandoned in order to allow the Applicant to divide the property. 20 feet would be left for access.

In response to a question by Vice-Chairman Heitel, Mr. Grant clarified that the Applicant had a right to apply with the Board of Adjustment for a variance, but given the approval history of the Board it was doubtful that a variance would be achieved.

Mr. Williams confirmed that the parcels on either side are currently undeveloped; an abandonment may exist past 118<sup>th</sup> Street. The area to the east on Dixileta is still a full 55 foot half street.

**VICE-CHAIRMAN HEITEL MOVED TO APPROVE CASE 2-AB-2006 WITH THE MODIFICATION REFLECTING ABANDONMENT OF ONLY THE 18 FEET OF THE NORTHERN PROPERTY BOUNDARY. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

**COMMISSIONER SCHWARTZ MOVED TO DENY CASE 15-AB-2004. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

**REGULAR AGENDA**

4. 25-ZN-2005 Earll Drive Condominiums

Request by owner to rezone from Highway Commercial Downtown Overlay (C-3 D0) to Downtown/Office Residential Type 2 Downtown Overlay (D/OR2 DO) on a 2.56 +/- acre parcel located at 7320 E. Earll Drive.

Ms. Chafin addressed the Commission. Highlights of her presentation included a context aerial and a zoning map. She noted that approval would bring the property into conformance with the land use designation within both the Downtown plan and the General Plan. No site plan or development was being proposed and staff was not proposing any amended development standards with the rezoning application.

Mr. Lou Jekel, Applicant, addressed the Commission. He confirmed that the application was for a change in zoning from C-3 Downtown overlay to Downtown office residential; a site plan and development plan were not being presented. The project will ultimately be a five storey condominium which he opined would attract development to the southern edge of the Downtown. Zoning needed to be confirmed in order to begin the project. Mr. Jekel noted that the project would be similar to what was represented in the packet.

Commissioner Schwartz inquired why a development plan was not included with the zoning application. Mr. Jekel stated that the site plan was prepared and research needed to be done to find out what the FAR was going to be. Once zoning is obtained they would be prepared to go forward with a development plan.

Commissioner Schwartz inquired about the timeline, noting that the Commission would like to see the proposed height prior to approving zoning changes. Mr. Jekel explained that his client could not go forward with plans until the zoning was approved, because waiting would push them beyond their time limits. He noted that the Commission had been provided with a fairly comprehensive idea of what was being planned.

In response to an inquiry by Chairman Steinberg, Mr. Jekel confirmed that the total number of units would be between 118 and 120; they will not be able to achieve the maximum of 135.

Vice-Chairman Heitel inquired whether a stipulation could be included requiring the Applicant to return to the Planning Commission for approval of the amended development standards and site plan prior to going before the Development Review Board.

Mr. Grant confirmed that amended standards would be required to come back to the Planning Commission. He noted that because the location was on the edge of Downtown. The area across the street is C-3, which would allow a maximum of 36 feet. If the Commission had concerns regarding how the site would relate, reviewing the site plan with the zoning would be a sensible strategy. Mr. Grant noted that the City is trying to get to a point where zoning would be looked at

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from a purely land use standpoint and Development Review would handle the development process.

Mr. Grant agreed with Commissioner Schwartz that the majority of applications come through with amended standards for this type of development, noting that it was less common for them to come through without a site plan. Commissioner Schwartz expressed concern about the fact that historically everything beyond the canal in the CAP was at 36 feet. If zoning were approved, the Applicant could potentially come back with a site plan for five stories across the entire site. He suggested that the Applicant be given the opportunity to return with the zoning combined with amended development standards, in order for the Commission to have a clear understanding of the intentions.

Mr. Grant clarified that the Ordinance states that anywhere in the downtown the maximum height is 36 feet, with rezoning to the Downtown District the maximum height would be 50 feet for residential. Commissioner Schwartz argued that during past cases Mr. Gawf had been emphatic that the Waterfront would be the only location with height. Commissioner Schwartz opined that a policy needed to be developed that would be consistent for the Downtown if height was to be allowed in the core of Downtown. Five stories should not be put on the edge of Downtown next to an area where the maximum height would be 36 feet. Commissioner Schwartz reiterated his request for the Applicant to be allowed to return with a development plan.

Mr. Jekel stated that it was his understanding that the City wanted to get properties into the Downtown zoning which provides for five stories. He argued that delaying the project would not change their plans and would be detrimental to the project. He opined that full advantage needed to be taken of the densities that the property values are demanding.

Commissioner O'Neill opined that it was important that development on the edge of two districts should be considered more seriously. He understood the land value would change if the property density was not maximized. He noted that if the site were in further from the edge of the district he would have a different opinion. However he had difficulty approving the project without knowing exactly what the development standards and the site plan would be.

Commissioner Steinke remarked that even if the zoning were granted, the application would have to go to the Development Review Board and the importance of the height variation and transitional issues would need to be made clear to them, because they are not charged with considering the transition between districts. He noted that although he understood the difficulty and challenge caused by a delay, he would like to see additional detail on the site plan and amended standards before approving the zoning.

In response to a question by Commissioner Barnett, Ms. Chafin clarified that the zoning would allow for flexibility to have residential, office, or mixed use.

Commissioner Schwartz stated that he wanted to make a motion.

Mr. Jekel remarked that after hearing Commissioner comments, he did not feel that their project was one that the Commission would support. On that basis, he requested an up or down vote.

**COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 25-ZN-2005 UNTIL SUCH TIME THAT A COMPANION AMENDED STANDARDS AND SITE PLAN IS BROUGHT FORWARD WITH THE ZONING CASE. COMMISSIONER STEINKE SECONDED THE MOTION.**

Commissioner Barnett inquired why a motion was being made to continue when the Applicant requested an up or down decision. Commissioner Schwartz explained that with a down vote the application would move forward to City Council and the Planning Commission would lose the opportunity to review the site plan and amended standards in order to make a recommendation to Council.

**THE MOTION FAILED FIVE (5) TO TWO (2). CHAIRMAN STEINBERG, VICE-CHAIRMAN HEITEL, COMMISSIONER HESS, COMMISSIONER O'NEILL, AND COMMISSIONER BARNETT DISSENTED.**

**COMMISSIONER BARNETT MOVED TO APPROVE CASE 25-ZN-2005.**

Commissioner Barnett remarked that anyone who did not want to approve the case could vote against the motion.

Vice-Chairman Heitel stated that he would second Commissioner Barnett's motion with a stipulation that the amended development standards, site plan, and height issues be brought back before the Planning Commission for approval prior to going before City Council. He inquired whether that would legally be a binding stipulation.

Commissioner Schwartz commented that there was a sealed envelope included in the packet which contained a picture of a building, which implied that the project would not have a setback from three stories into the five stories. He opined that Vice-Chairman Heitel's suggested stipulation would not address the concerns because the zoning would be blanket zoning for five stories. Vice-Chairman Heitel clarified that the intention of the stipulation was to allow the Commission to approve or deny the ability to build on the site relative to the site plans, amended development standards, and building elevations.

Ms. Scott confirmed that once a motion for approval or denial is reached, the case would move forward to City Council based on that recommendation. The item could come back during study session for the Planning Commission to review the site plan and send further comments to City Council, but the zoning would have already occurred from a Planning Commission standpoint. If the Applicant requests amended development standards at a later point in time the application would return to the Planning Commission.

**VICE-CHAIRMAN HEITEL WITHDREW HIS OFFER TO SECOND COMMISSIONER BARNETT'S MOTION.**

**COMMISSIONER BARNETT WITHDREW HIS MOTION.**

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Commissioner Barnett then offered to second Commissioner Schwartz's motion for continuance if it were to be reconsidered.

Ms. Scott confirmed that normal protocol would require the Applicant to return to the Planning Commission prior to going before City Council if continued.

**COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 25-ZN-2005 TO A DATE TO BE DETERMINED, AT WHICH TIME THE APPLICANT WILL BRING FORWARD A COMPANION ZONING, APPLIED STANDARDS, AND SITE PLAN FOR APPROVAL OR DISAPPROVAL. COMMISSIONER STEINKE SECONDED THE MOTION.**

Vice-Chairman Heitel stated that the Applicant was entitled to an up or down vote, and that he would not support the motion for that reason. He opined that it would be clear to the City Council that the Commission is proactive and is dissatisfied with the incomplete application and that they would follow the Planning Commission's recommendation if the application were denied.

In response to an inquiry by Commissioner O'Neill, Mr. Grant confirmed that if an application is denied the same application cannot return within a year; the application could be modified and return. Chairman Steinberg commented that it was baffling that the Applicant would want an up or down vote when a continuance would give the opportunity for them to return with their application.

Ms. Scott clarified that in her brief review of the Zoning Ordinance, it appeared that there would be potential for the Applicant to circumvent the Planning Commission and continue to City Council, even with a continuance. She noted that Section 1.702a of the zoning ordinance stated "The City Council shall hold a second public hearing if requested by any party aggrieved by any member of the public or by a member of the City Council."

Commissioner Schwartz opined that City Council would understand that the Planning Commission was trying to make sure that applications that come through are thorough and complete. The Planning Commission should not be discussing whether or not to allow the Applicant to go forward with an incomplete application and should provide them with the opportunity to put their development plan together.

**THE MOTION FAILED FOUR (4) TO THREE (3). VICE-CHAIRMAN HEITEL, COMMISSIONER HESS, COMMISSIONER O'NEILL, AND COMMISSIONER BARNETT DISSENTED.**

**VICE-CHAIRMAN HEITEL MOVED TO DENY CASE 25-ZN-2005. COMMISSIONER HESS SECONDED THE MOTION.**

Commissioner Schwartz commented that he would vote in favor of the motion in order to end the debate. Addressing Mr. Jekel, he reiterated that applications should not be brought in the way theirs was presented; they should be complete and thorough. He hoped that denying the application would not prove to be a mistake.



**THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

6. 14-GP-2005 McCormick Ranch Condos

Request by owner for a non-major General Plan Amendment from "Office" to "Urban Neighborhoods" on a 2.79+/- acre parcel located at 8301 Via Paseo del Norte.

7. 22-ZN-2005 McCormick Ranch Condos

Request by owner to rezone from Commercial Office, Planned Community District (C-O PCD) to Multiple Family District, Planned Community District (R-5 PCD) on a 2.79+/- acre parcel located at 8301 Via Paseo del Norte.

Mr. Curtis addressed the Commission, noting that cases 14-GP-2005 and 22-ZN-2005 would be presented together. Highlights of his presentation included a context aerial, the General Plan land use map exhibit, and the zoning map. The request is a General Plan amendment to turn the property from an office designation to an urban neighborhoods land use designation and to change zoning to an R-5 multifamily residential planned community district. The applicant is proposing a two- to three-storey condominium complex.

In response to a question by Commissioner Schwartz, Mr. Curtis stated that there are no three-storey residential in the vicinity of the project. Commissioner Schwartz noted that there are no three-storey residential projects in McCormick Ranch; it is entirely one- and two-storey.

In response to an inquiry by Vice-Chairman Heitel, Mr. Curtis confirmed that a letter was included in the packet from the Homeowners Association supporting the project.

Troy Vinton, with VVG Associates Architects, addressed the Commission. He reiterated the specifics reviewed by Mr. Curtis, noting that changing the use from office use to residential would benefit the surrounding neighborhood and the nearby retail development. Mr. Vinton stated that the application fit within the zoning ordinance for the R-5 zoning within the 36-foot height limits and will be providing 38 percent open space. He opined that the decrease in overall traffic resulting from the project will benefit the entire neighborhood.

In response to a question by Commissioner O'Neill, Mr. Vinton confirmed that the Homeowners Association had approved the full development package. He presented a typical elevation to the Commission, noting that approximately 60 percent of the buildings would reach the 35-foot height limit.

Mr. Curtis confirmed that the current zoning would allow the surrounding buildings to go to 36 feet, however would not allow for residential. The nearby LA Fitness currently being constructed has a height of 36 feet, although it is a one-storey building.

Commissioner Schwartz remarked that he liked the architecture and thought the new development would be beneficial for the area. He expressed concern about having 36 feet in an area that is primarily one-storey residential. He noted that there was a four-foot grade differential from the street to the back of the site, and requested the Applicant look at lowering the site five or six more feet.

In response to a suggestion by Commissioner Schwartz to transition the driveways, Mr. Vinton explained that their engineer felt that would make the project unbuildable from a financial standpoint. Lowering the footprints more could result in serious drainage issues.

In response to an inquiry by Commissioner O'Neill, Mr. Vinton reported that there is a zero setback. Indicating the property line on the site plan, Mr. Vinton explained that the buildings would be set back three feet. Commissioner O'Neill opined that the current plan did not meet the zoning, which requires structures to either be on the property line or set back a minimum of ten feet.

Ms. Galav stated that the site plan did not need to meet the zoning standards during the rezoning; the site plan would be brought into compliance during the Development Review process.

Commissioner O'Neill clarified that he was informing the Applicant that they had a potential problem and questioning whether site plan changes were being considered with the zoning. Ms. Galav reiterated that what they were seeing was a conceptual site plan and was not being considered. Commissioner Schwartz opined that including the conceptual site plan in the packet implied that it should be considered in the zoning decision.

Commissioner O'Neill clarified that he supported the project. He expressed confusion because of issues during consideration of the case previously considered in which the Commission was uncomfortable that there was no site plan included in the application. He inquired whether the case was being recommended without any stipulations to a site plan. If the site plan was being considered, the Commission needed to be aware that it did not meet the Zoning Ordinance. Ms. Scott clarified that this zoning case was not being stipulated to the site plan; the site plan was included as an informational item.

Commissioner O'Neill opined that the Commission was in danger of contradicting itself by approving one case without a site plan and having an issue with the absence of a site plan for another case during the same meeting. He commented that it would be frustrating as an applicant to deal with the inconsistency.

Commissioner Schwartz commented that the conceptual site plan could be stipulated to. Mr. Curtis confirmed that the Commission could stipulate to a general conformance to the site plan. Mr. Curtis reviewed the steps taken by staff when looking at site plans and their impacts to the surrounding area; site plans are stipulated to when something in particular needs to be protected. Staff felt in this case the development sensitivities were already well established.

Chairman Steinberg expressed concern that during the zoning process staff had not noticed the nonconformance of the setbacks. Mr. Vinton stated that the problem would be easily rectified. In response to a request by Commissioner Schwartz, Mr. Vinton indicated the location of the three-storey elements within the project.

Commissioner Steinke agreed that there was a feeling of inconsistency, although the cases were different because the previous case lacked the components provided in this case. He opined that it would be unlikely that the specifics being requested would be addressed during any nonmajor General Plan amendment request or zoning request. He remarked that if in looking at the context the Commission had an issue with the 36-foot height limit in the residential component, they should take a position on that issue.

Mr. Larry Grobeman addressed the Commission. He discussed issues that the current residents of the office complex were having with the developer. Mr. Grobeman opined that unethical business practices had destroyed the businesses that had occupied the complex for many years.

**COMMISSIONER SCHWARTZ MOVED TO APPROVE CASE 14-GP-2005 AND CASE 22-ZN-2005 WITH A STIPULATION THAT THE SITE BE LOWERED TEN FEET FROM THE AVERAGE ELEVATION OF VIA DE PASEO.**

In response to an inquiry by Chairman Steinberg, Mr. Vinton confirmed that lowering the site would detrimentally affect the site and the drainage pattern.

Commissioner Schwartz inquired whether more time to do an evaluation and a hydrology study would be beneficial. Mr. Vinton opined that would be a futile attempt which would provide no result.

Chairman Steinberg reiterated that the approval was for a nonmajor General Plan amendment and a rezoning. He opined that it was unnecessary to put a premature burden on the Applicant.

**THE MOTION DIED FOR LACK OF A SECOND.**

Vice-Chairman Heitel commented that he was sorry about the problems the current tenants were having and noted that unfortunately it was not the purview of the Commission to consider with the application.

**VICE-CHAIRMAN HEITEL MOVED FOR APPROVAL OF 14-GP-2005 AND 22-ZN-2005. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED BY A VOTE OF FIVE (5) TO ONE (1). COMMISSIONER SCHWARTZ DISSENTED. COMMISSIONER BARNETT WAS RECUSED.**

9. 2-TA-2006 ESL Text Amendment

Request by City of Scottsdale, Applicant, for a Text Amendment to the City of Scottsdale Zoning Ordinance (Ordinance 455), to amend Article VI. Supplementary District., Section. 6. 1083. Amended Development Standards and Section. 6. 1090. ESL Submittal Requirements. The purpose of this text

amendment is to amend the exemption process related to the 15 feet setback for walls on individual residential lots.

10. 6-TA-2006 Minor Amendments to ESL

Request by City of Scottsdale, Applicant, for a text amendment to Article VI. Supplementary District., Section(s) 6.1010. Environmentally Sensitive Lands Ordinance of the City of Scottsdale Zoning Ordinance (455) to amend Section 6.1011. Purpose., Section. 6.1060.. Open Space Requirements., and Section. 6. 1100. Maintenance and violations. and to add Section 6. 1035. Site Preparation limitations. The intent of this amendment is to protect undeveloped desert areas from being graded or scarred before a specific development plan on a property has been approved by the City.

Vice-Chairman Heitel requested that in the interest of time both cases be presented together.

Mr. Grant stated that staff felt that the notice did not describe the text amendments properly. He noted that staff would like to receive Commissioner input and requested that the cases be continued to the next meeting in order to allow them to be noticed properly.

Mr. Grant reviewed the two text amendments. He noted that 2-TA-2006 addressed the wall issue and allowed for an applicant to have flexibility on where a lot wall is located; it also allows individual lot owners the flexibility to respond to environmental issues which previously would have been addressed at the Board of Adjustment. He stated that 6-TA-2006 addressed the weakness in the Ordinance concerning grading; it defines that until a development proposal is approved no grading can be done.

Commissioner Barnett applauded the efforts of staff in creating the text amendments.

Commissioner Barnett commented in regard to the grading issue he would be more comfortable with 60 or 90 days as opposed to 120 days allowance to revegetate. He opined that the most important element missing from the text was the criteria for dealing with someone who grades their property and then does not build for years. Commissioner Barnett provided an example of wording that could be used: "if the owner fails to comply with the revegetation, the City reserves the right to have the property restored and the owner billed for the actual costs." He felt the other components of the text amendments were fine.

Vice-Chairman Heitel thanked staff for the work they were doing on cleaning up important technical issues. He requested that staff provide some history on the ability of the City to enforce penalties regarding grading and other issues at the next meeting.

Commissioner Hess agreed with previous comments, particularly with shortening the revegetation allowance from 120 days to 60 days and putting some teeth in the penalty for prematurely grading a lot.

Mr. Howard Myers addressed the Commission. He noted that 2-TA-2006 was more than a wall setback issue, it was an amended standards issue that would give people in unsubdivided properties the same latitude subdivision builders have. Mr. Myers reviewed the benefits that the text amendment would provide to citizens. He noted that the Desert Homeowners Association believed the text amendment was a needed change.

Mr. Myers remarked that the Desert Homeowners Association was in favor of 6-TA-2006, noting a lot of disturbances have been occurring without permits. He opined that enforcement would be an issue that would need to be addressed and agreed that a hefty penalty should be imposed. He reiterated that he was behind both of the amendments, because they will put some needed elements into the ESL that will help everyone.

Vice-Chairman Heitel commented that the City owed Mr. Myers a great deal of gratitude for all of his efforts.

Mr. Grant echoed Vice-Chairman Heitel's comment. He noted that in addition to serving on the Board of Adjustment, Mr. Myers spends a significant amount of time helping to identify and address issues pertaining to the northern area.

**COMMISSIONER BARNETT MOVED TO CONTINUE 2-TA-2006 AND 6-TA-2006. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED BY A UNANIMOUS VOTE OF FIVE (5) TO ZERO (0).**

**WRITTEN COMMUNICATION**

None.

**ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 7:16 p.m.

Respectfully submitted,  
A/V Tronics, Inc.

**APPROVED**